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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,928	06/23/2003	James Edward Nault	1	1862

26630 7590 11/13/2006

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EXAMINER

DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/602,928	NAULT ET AL.	
	Examiner	Art Unit	
	Jerome W. Donnelly	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05/07/06
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) → is/are pending in the application. 1-3-6 8, 10-20
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) _____ is/are rejected. 1-6 8, 10, 11
- 7) ☒ Claim(s) _____ is/are objected to. 12 and 14-19
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

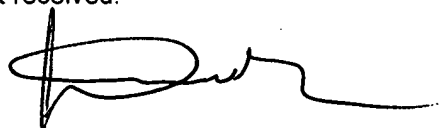
- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

JEROME DONNELLY
PRIMARY EXAMINER



Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 1, 2, 4, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Wedge Jr..

Chen discloses a device comprising, elements 20, 60, 62 40508072 and 90 and an elastic cord assembly (10). The exercise bar assembly comprising an elongated body, an opposing pair of cord tunnels (21) the elastic cord comprising a stretchable exercise cord and a means (30) of impingement.

Chen however fails to disclose his device comprising a bar separation assembly comprising: a release button and a snap fit means as claimed. (see Wedge Jr. Fig. 2 and 3).

Wedge Jr. however discloses a separation assembly comprising a release button as claimed.

Given the above combined teachings the examiner note that it would have been obvious to one of ordinary skill in the art to provide as a separation means a release button and snap-fit separation as shown by Wedge Jr., as an alternate known separation means known in the art of sectional bar attachment means.

In regard to claim 5, the examiner notes that grasshopper leg springs and separation spring seats are notoriously well known in the art of button spring clips used in conjunction with apertures for the joining of telescopic members.

In regard to claim 6, note elements 18 and 20 of Wedge Jr. the examiner further notes that the term "integral" is so broad to as to read on elements 18 and 20 of Wedge Jr.

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Claims 3, 8, 10, 11, 13 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Chang 5637066.

Chang discloses an exercise bar assembly (fig. 1) an elastic cord assembly (61), the exercise bar assembly comprising an elongated bar assembly comprising an elongated body (11), cord impingement nest (12) having channels, and comprising a means 61 of impingement.

In regard to claim 8, as broadly claimed element (13) of fig. 4 of Chang represents a recess.

In regard to claim 10 note Fig. 4, of Chang.

In regard to claim 11, the claim is so broad so as to read on the projection, which forms the tunnel opening (12) of Chang.

The reference of a handgrip in claim 13, are considered as a limitation directed to functional language absent positive claimed structure of a handle and are not being examined as part of the claims. The claims also fail to provide antecedent basis for "The handgrip connection block".

Claims 12 and 14-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference

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claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 3-6, 8 and 10-20 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6988978. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application are fully disclosed in the patented claims of 6988978 as being obvious although not identically disclosed.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly



JEROME DONNELLY
PRIMARY EXAMINER